

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALLEN D. LINT,

Defendant.

CASE NO. CR18-5152 BHS

ORDER DENYING
DEFENDANT'S MOTION FOR
COMPASSIONATE RELEASE

This matter comes before the Court on Allen Lint's ("Lint") motion for compassionate release. Dkt. 52. The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby denies the motion for the reasons stated herein

I. PROCEDURAL AND FACTUAL BACKGROUND

On April 4, 2018, the Government filed a complaint against Lint alleging the crime of possession of LSD with intent to distribute. Dkt. 1. On April 18, 2018, the grand jury returned an indictment against Lint charging a conspiracy to distribute

1 controlled substances and possession of LSD with intent to distribute. Dkt. 16. On
 2 September 4, 2018, Lint plead guilty to the conspiracy charge. Dkt. 30. On December 3,
 3 2018, the Court sentenced Lint to 60-months imprisonment followed by five years of
 4 supervised release. Dkt. 43.

5 On June 4, 2020, Lint filed a motion for compassionate release. Dkt. 52. On June
 6 10, 2020, the Government responded. Dkt. 59. On June 12, 2020, Lint replied. Dkt. 61.
 7 On June 25, 2020, the Court requested supplemental briefing. Dkt. 62. On June 30,
 8 2020, the Government responded, Dkt. 63, and Lint responded, Dkt. 64.

9 II. DISCUSSION

10 Pursuant to 18 U.S.C. § 3582(b), a judgment of conviction that includes a sentence
 11 of imprisonment “constitutes a final judgment and may not be modified by a district court
 12 except in limited circumstances.” *Dillon v. United States*, 560 U.S. 817, 824 (2010)
 13 (internal quotations omitted). Those limited circumstances are provided under 18 U.S.C.
 14 § 3582(c)(1)(A)(i). Effective December 21, 2018, the First Step Act of 2018 amended
 15 § 3582(c)(1)(A) by adding a provision that allows prisoners to directly petition a district
 16 court for compassionate release:

17 (A) the court, upon motion of the Director of the Bureau of Prisons,
 18 or upon motion of the defendant after the defendant has fully exhausted all
 19 administrative rights to appeal a failure of the Bureau of Prisons to bring a
 20 motion on the defendant’s behalf or the lapse of 30 days from the receipt of
 21 such a request by the warden of the defendant’s facility, whichever is
 22 earlier, may reduce the term of imprisonment (and may impose a term of
 probation or supervised release with or without conditions that does not
 exceed the unserved portion of the original term of imprisonment), after
 considering the factors set forth in section 3553(a) to the extent that they
 are applicable, if it finds that—

(i) extraordinary and compelling reasons warrant such a reduction;

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2 and that such a reduction is consistent with applicable policy
statements issued by the Sentencing Commission;

3 18 U.S.C. § 3582(c)(1)(A). Accordingly, a court may reduce a sentence upon motion of a
4 defendant provided that: (1) the inmate has either exhausted his or her administrative
5 appeal rights of the Bureau of Prison's ("BOP") failure to bring such a motion on the
6 inmate's behalf or has waited until 30 days after the applicable warden has received such
7 a request; (2) the inmate has established "extraordinary and compelling reasons" for the
8 requested sentence reduction; and (3) the reduction is consistent with the Sentencing
9 Commission's policy statement. *See id.*

10 The Sentencing Commission's policy statement referenced in 18 U.S.C.
11 § 3582(c)(1)(A)(i) provides, in relevant part:

12 [T]he court may reduce a term of imprisonment (and may impose a
13 term of supervised release with or without conditions that does not exceed
14 the unserved portion of the original term of imprisonment) if, after
15 considering the factors set forth in 18 U.S.C. § 3553(a), to the extent that
they are applicable, the court determines that—

16 (1)(A) Extraordinary and compelling reasons warrant the reduction;

17 ***

18 (2) The defendant is not a danger to the safety of any other person or
19 to the community, as provided in 18 U.S.C. § 3142(g); and

20 (3) The reduction is consistent with this policy statement.

21 United States Sentencing Guidelines ("USSG") § 1B1.13.

22 In this case, the Court focuses on the § 3553(a) factors in general and specifically
the factor relating to Lint's ability to receive proper medical care at his institution of
incarceration. In general, Lint has failed to establish that the consideration of these
factors has changed since his original sentencing in 2018, which weighs against granting

1 compassionate release. Regarding medical care, however, COVID-19 raises serious
2 concerns given Lint's documented medical conditions and the BOP's ability to protect
3 Lint from infection. While some institutions have been able to prevent the virus from
4 infecting significant numbers of incarcerated individuals and staff, other institutions have
5 experienced widespread infection resulting in serious medical complications including
6 death. Lint is housed at Sheridan, which has only recently experienced an infection in
7 two inmates. *See* <https://www.bop.gov/coronavirus/> (last visited 8/13/2020). In light of
8 these facts, the Court finds that this institution's ability to protect Lint and provide proper
9 medical care has not been altered by the global pandemic. Therefore, Lint has failed to
10 establish sufficient reason to warrant a reduction in his sentence to remove him from this
11 institution, and the Court denies his motion.

12 **III. ORDER**

13 Therefore, it is hereby **ORDERED** that Lint's motion for compassionate release,
14 Dkt. 52, is **DENIED**.

15 Dated this 13th day of August, 2020.

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18 **BENJAMIN H. SETTLE**
United States District Judge